

Attorney Docket No. 5725.0656-00
Application No.: 09/618,066

wherein said structured composition is in the form of a wax-free solid;
wherein said at least one dyestuff is chosen from pigments and nacles; and
wherein said at least one dyestuff, said at least one continuous liquid fatty phase
and said at least one structuring polymer form a physiologically acceptable medium.--

In accordance with the requirements of 37 C.F.R. § 1.121, the attached Appendix shows the changes that have been made by the proposed amendments.

REMARKS

I. Status of the Claims

Claims 1-45, 47-67, 69-113 and 118-167 are pending in this application. Claims 90, 163, and 165 have been amended to recite that the at least one dyestuff is chosen from pigments and nacles. Support for this amendment can be found throughout the specification and claims as filed. See e.g., page 22, lines 18-19, and page 23, lines 4-8. Claim 167 has been added. Support for this claim can be found throughout the specification and claims as filed. See e.g., claims 1 and 32. Accordingly, no new matter has been added.

II. Information Disclosure Statement filed October 18, 2002

On the PTO Form 1449 filed with an Information Disclosure Statement on October 18, 2002, the following co-pending and related PCT applications were cited:

Co-Pending Application No. 09/749,036; Attorney Docket No. 5725.0832-00
Title: COMPOSITION COMPRISING AT LEAST ONE HETERO POLYMER AND AT LEAST ONE PASTY FATTY
SUBSTANCE AND METHODS FOR USE
Inventors: Véronique FERRARI et al.
U.S. Filing Date: December 28, 2000

FINNEGAN
HENDERSON
FARABOW
GARRETT &
DUNNER LLP
1300 I Street, NW
Washington, DC 20005
202.408.4000
Fax 202.408.4400
www.finnegan.com

Attorney Docket No. 5725.0656-00
Application No.: 09/618,066

PCT Application No. PCT/US01/47459; Attorney Docket No. 5725.0594-0304
Title: COSMETIC COMPOSITIONS CONTAINING AT LEAST ONE HETEROPOLYMER AND AT LEAST ONE FILM-FORMING SILICONE RESIN AND METHODS OF USING
Inventors: Mohamed KANJI et al.
U.S. Filing Date: December 12, 2001

PCT Application No. PCT/US01/47499; Attorney Docket No. 5725.0595-0304
Title: COSMETIC COMPOSITIONS CONTAINING HETEROPOLYMERS AND OIL-SOLUBLE CATIONIC SURFACTANTS AND METHODS OF USING SAME
Inventors: Carlos PINZON and Paul THAU
U.S. Filing Date: December 12, 2001

PCT Application No. PCT/FR01/03965; Attorney Docket No. 5725.0795-01-304
Title: COSMETIC COMPOSITION COMPRISING HETERO POLYMERS AND A SOLID SUBSTANCE AND METHOD OF USING SAME
Inventors: Roberto CAVAZZUTI et al.
International Filing Date: December 12, 2001

PCT Application No. PCT/US01/47454; Attorney Docket No. 5725.0806-0304
Title: COMPOSITIONS CONTAINING HETEROPOLYMERS AND OIL-SOLUBLE POLYMERS AND METHODS OF USING SAME
Inventors: Carlos PINZON and Paul THAU
U.S. Filing Date: December 12, 2001

PCT Application No. PCT/US01/47497; Attorney Docket No. 5725.0808-0304
Title: COMPOSITIONS CONTAINING HETEROPOLYMERS AND OIL-SOLUBLE ESTERS AND METHODS OF USING SAME
Inventors: Carlos PINZON and Paul THAU
U.S. Filing Date: December 12, 2001

PCT Application No. PCT/US01/47496; Attorney Docket No. 5725.0809-0304
Title: COMPOSITIONS CONTAINING HETEROPOLYMERS AND METHODS OF USING SAME
Inventors: Carlos PINZON and Paul THAU
U.S. Filing Date: December 12, 2001

PCT Application No. PCT/FR01/03962; Attorney Docket No. 5725.0816-01-0304
Title: COMPOSITION COMPRISING AT LEAST ONE HETERO POLYMER AND AT LEAST ONE INERT FILLER AND METHODS FOR USE
Inventors: Véronique FERRARI et al.
International Filing Date: December 12, 2001

PCT Application No. PCT/FR01/03963; Attorney Docket No. 5725.0817-01-0304
Title: COSMETIC COMPOSITIONS CONTAINING AT LEAST ONE HETEROPOLYMER AND AT LEAST ONE GELLING AGENT AND METHODS OF USING THE SAME
Inventor: Véronique FERRARI
International Filing Date: December 12, 2001

Co-Pending Application No. 10/129,377; Attorney Docket No. 5725.0819-01
Title: COMPOSITION STRUCTURED WITH A POLYMER CONTAINING A HETEROATOM AND ORGANOGELATOR
U.S. Filing Date: May 3, 2002

FINNEGAN
HENDERSON
FARABOW
GARRETT &
DUNNER LLP

1300 I Street, NW
Washington, DC 20005
202.408.4000
Fax 202.408.4400
www.finnegan.com

Although the Examiner returned the PTO Form 1449 with the Notice of Allowance dated November 19, 2002, and initialed beside each of the above-listed applications, thus indicating that she had considered these documents, she also drew a line through each of the citations. Accordingly, Applicants respectfully request that the Examiner confirm

Attorney Docket No. 5725.0656-00
Application No.: 09/618,066

that each of the above documents was considered by her. For the Examiner's convenience, a duplicate copy of each of the above-listed applications is enclosed herewith, and each is listed on the PTO Form 1449 also submitted herewith.

III. Comments on the Examiner's Statement of Reasons for Allowance

At page 2 of the Notice of Allowability, the Examiner made a representation concerning the scope of the present invention. This representation appears to be based on independent claim 1. Applicants note, however, that the present application contains 167 claims, each having a different scope.

With respect to U.S. Patent No. 6,242,509 B1 to Berger et al. ("*Berger*"), the Examiner asserts that *Berger* "fails to teach the combination of a structured polymer comprising at least one dyestuff and a liquid fatty phase wherein the liquid fatty phase is structured with a structuring polymer comprising a polymeric skeleton with repeating units comprising at least one non-pendant hetero atom, wherein the structured composition is in the form of a wax-free solid."

Applicants note that *Berger* is drawn to gels comprising an ester-terminated dimer acid-based polyamide and a solvent. See Abstract. However, *Berger* fails to teach or suggest, *inter alia*, compositions comprising a dyestuff chosen from pigments and nacs. For example, neither D&C-type dyes nor Pylakrome™-type dyes fall within the scope of a dyestuff chosen from pigments and nacs. Similarly, *Berger* fails to teach or suggest the various cosmetic compositions presently claimed or compositions comprising, *inter alia*, at least one amphiphilic compound which is liquid at room

FINNEGAN
HENDERSON
FARABOW
GARRETT &
DUNNER LLP

1300 I Street, NW
Washington, DC 20005
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Application No.: 09/618,066

Appendix

Version with markings to show changes made pursuant to 37 C.F.R. § 1.121(c)(1)(ii):

IN THE CLAIMS:

90. (Amended) A dermatological composition for at least one keratin material, a care composition for at least one keratin material, a make-up composition, a body hygiene composition, a sunscreen composition for at least one keratin material, or an after-sun composition for at least one keratin material comprising a composition comprising:

(a) at least one dyestuff; and

(b) at least one continuous liquid fatty phase comprising:

(i) at least one structuring polymer which has a weight-average molecular mass ranging from 1000 to 30,000 and comprises:

a) a polymeric skeleton comprising repeating units comprising at least one non-pendant hetero atom; and

b) at least one fatty chain, optionally functionalized, comprising from 12 to 120 carbon atoms, chosen from pendant fatty chains and terminal fatty chains which are bonded to said polymeric skeleton;

wherein said at least one fatty chain is present in a quantity ranging from 40% to 98% of the total number of all said repeating units comprising at least one non-pendant hetero atom and all said at least one fatty chains;

wherein said at least one dyestuff is chosen from pigments and nacr s;

and

wherein said composition is in the form of a structured, wax-free solid.

FINNEGAN
HENDERSON
FARABOW
CARRETT &
DUNNER LLP

1300 I Street, NW
Washington, DC 20005
202.408.4000
Fax 202.408.4400
www.finnegan.com

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163. (Amended) A structured composition comprising:

(a) at least one dyestuff; and

(b) at least one continuous liquid fatty phase comprising:

(i) at least one structuring polymer which has a weight-average molecular mass ranging from 1000 to 30,000 and comprises:

a) a polymeric skeleton comprising repeating units comprising at least one non-pendant hetero atom; and

b) at least one fatty chain, optionally functionalized, comprising from 12 to 120 carbon atoms, chosen from pendant fatty chains and terminal fatty chains which are bonded to said polymeric skeleton;

wherein said at least one fatty chain is present in a quantity ranging from 40% to 98% of the total number of all said repeating units comprising at least one non-pendant hetero atom and all said at least one fatty chains;

wherein said at least one continuous liquid fatty phase comprises greater than 40% by weight of the total weight of said at least one continuous liquid fatty phase of at least one apolar liquid oil;

wherein said structured composition is in the form of a wax-free solid;

wherein said at least one dyestuff is chosen from pigments and nacles; and

wherein said at least one dyestuff, said at least one continuous liquid fatty phase and said at least one structuring polymer form a physiologically acceptable medium.

FINNEGAN
HENDERSON
FARABOW
GARRETT &
DUNNER LLP

1300 I Street, NW
Washington, DC 20005
202.408.4000
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165. (Amended) A structured composition comprising:

(a) at least one dyestuff; and

Attorney Docket No. 5725.0656-00
Application No.: 09/618,066

(b) at least one continuous liquid fatty phase comprising:

(i) at least one structuring polymer which has a weight-average molecular mass ranging from 1000 to 30,000 and comprises:

a) a polymeric skeleton comprising repeating units comprising at least one non-pendant hetero atom; and

b) at least one fatty chain, optionally functionalized, comprising from 12 to 120 carbon atoms, chosen from pendant fatty chains and terminal fatty chains which are bonded to said polymeric skeleton;

wherein said at least one fatty chain is present in a quantity ranging from 40% to 98% of the total number of all said repeating units comprising at least one non-pendant hetero atom and all said at least one fatty chains;

wherein said structuring polymer is chosen from polymers resulting from at least one polycondensation reaction between at least one dicarboxylic acid and at least one diamine;

wherein said structured composition is in the form of a wax-free solid;

wherein said at least one dyestuff is chosen from pigments and nacs;

and

wherein said at least one dyestuff, said at least one continuous liquid fatty phase and said at least one structuring polymer form a physiologically acceptable medium.

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HENDERSON
FARABOW
GARRETT &
DUNNER LLP

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Application No.: 09/618,066

t mperature and having an HLB value of less than 12. Accordingly, Applicants submit that *Berger* fails to teach or suggest the subject matter of the present claims.

IV. Conclusion

Applicants respectfully request reconsideration of this application and the timely allowance of the pending claims.

Please grant any extension of time under 37 C.F.R. § 1.136 required to enter this paper and charge those additional fees to our Deposit Account No. 06-916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: June 23, 2003

By: 

Michelle E. O'Brien
Reg. No. 46,203

539360

FINNEGAN
HENDERSON
FARABOW
GARRETT &
DUNNER LLP

1300 I Street, NW
Washington, DC 20005
202.408.4000
Fax 202.408.4400
www.finnegan.com